

Montana Water Court
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MONTANA WATER COURT, YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B
PRELIMINARY DECREE

* * * * *

CLAIMANTS: Anne M. Bradley; David W. Bradley; ~~Judy M. Faw;~~
Robert L. Faw

CASE 43B-0735-R-2022
43B 179999-00

NOTICE OF FILING OF MASTER'S REPORT

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's finding of fact, conclusion of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must mail a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

MASTER'S REPORT

This claim appeared in the Preliminary Decree with the following issue remark:

THE CLAIMED SOURCE MAY BE QUESTIONABLE. BASED ON AVAILABLE DATA, THE SOURCE MAY BE SURFACE WATER FROM THE BOULDER RIVER.

This remark was not addressed through the objection process. The Water Court is required to resolve the issue raised by an issue remark. Section 85-2-248, MCA. Under Section 85-2-248(3), MCA, information in the claim file or other information obtained by the Court can be reviewed to determine if it provides a sufficient basis to resolve the issue raised by a remark and the Court can provide the claimants an opportunity to file additional information or evidence.

On March 16, 2023 the DNRC Memorandum was filed including a Verified Motion To Amend Water Right Claim by Anne M. Bradley and David W. Bradley. This is not a motion to amend filed pursuant to section 85-2-233(6), MCA, so additional analysis about notice is not required. These settlement documents are viewable in the Court's FullCourt Enterprise case management system.

APPLICABLE LAW

"All issue remarks to claims that are not resolved through the filing of an objection as provided in 85-2-233 must be resolved as provided in this section." Section 85-2-248(2), MCA.

A properly filed Statement of Claim for Existing Water Right is prima facie proof of its content pursuant to section 85-2-227, MCA. This prima facie proof may be contradicted and overcome by other evidence that proves, by a preponderance of the evidence, that the elements of the claim do not accurately reflect the beneficial use of the water right as it existed prior to July 1, 1973. This is the burden of proof for every assertion that a claim is incorrect including for claimants objecting to their own claims. Rule 19, W.R.Adj.R.

FINDING OF FACT

The Preliminary Decree states that the source name is SPRING, UNNAMED TRIBUTARY OF BOULDER RIVER. The source name should be SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER. The issue remark should be removed as resolved.

CONCLUSION OF LAW

The settlement documentation is sufficient to resolve the issue remark without evidentiary hearing. Sections 85-2-248(3) and (11), MCA.

RECOMMENDATIONS

Based upon the above Finding of Fact and Conclusion of Law, this Master recommends

that the Court make the changes specified in the Finding of Fact to correct the Preliminary Decree for this Basin. A Post Decree Abstract of Water Right Claim is served with this Report to confirm the recommended changes have been made in the state's centralized record system.

ELECTRONICALLY SIGNED AND DATED BELOW

Service via USPS Mail:

Anne M. Bradley
David W. Bradley
351 Big Timber Loop Road, # 1222
Big Timber, MT 59011

Last Order:

Judy M. Faw

Robert L. Faw

13 Prairie Dog Rd.

Livingston, MT 59047-8905

Note: Service List Updated 5-17-23

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 179999-00 STATEMENT OF CLAIM

Version: 3 -- POST DECREE

Status: ACTIVE

Owners: DAVID W BRADLEY
PO BOX 1222
BIG TIMBER, MT 59011

ANNE M BRADLEY
PO BOX 1222
BIG TIMBER, MT 59011

Priority Date: JUNE 1, 1950

Type of Historical Right: USE

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 170.54 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 2 - MODERATELY HIGH

Maximum Acres: 25.00

Source Name: SPRING, UNNAMED TRIBUTARY OF YELLOWSTONE RIVER

Source Type: GROUNDWATER

ALSO KNOWN AS GODFREY SPRING NO. 2

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SWNESE	13	1N	14E	SWEET GRASS

Period of Diversion: APRIL 1 TO NOVEMBER 1

Diversion Means: DIKE

Period of Use: APRIL 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	20.00		NE	13	1N	14E	SWEET GRASS
2	5.00		SE	13	1N	14E	SWEET GRASS
Total:	25.00						

Remarks:

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

179999-00 180000-00